



Federal Regulatory Affairs

2300 N St. NW, Suite 710 Washington DC 20037

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June 4, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

Re: ***WC Dkt. No. 12-63: Joint Petition of Price Cap Holding Companies for Conversion of Average Schedule Affiliates to Price Cap Regulation and Limited Waiver Relief***

Dear Ms. Dortch:

On May 31, 2012, Kathleen Q. Abernathy, Chief Legal Officer and EVP Regulatory, Frontier Communications, and the undersigned met with Wireline Competition Bureau Chief Sharon Gillett and the following members of the Wireline Competition Bureau ("WCB"): Deena Shetler, Victoria Goldberg, Travis Litman, and Pam Arluk.

Frontier expressed its appreciation for the WCB Staff's continued attention to the Joint Petition. Recognizing, however, WCB Staff's limited resources and the Petition's request for a July 1, 2012 conversion, Frontier proposed an alternative interim solution in lieu of immediate action on the Joint Petition: Frontier, Consolidated and Windstream ("Joint Parties") would file tariffs that would continue to concur with NECA access tariff terms and conditions; however instead of using NECA rates, the companies would file their own rates for switched and special access outside of the average schedule pool at current settlement levels. Given that ICLS and SLC rates remain the same, and the Carrier Common Line charge is frozen at NECA rates, only traffic-sensitive switched and special access rates would be affected by the proposed change. The tariffs, which would be effective July 1, 2012, would include a provision that subjects the specified-rates to a true-up when the Commission takes action on the Joint Petition to convert to price cap regulation. The tariff rates calculation would be done as proposed in the petitioning companies' data submission of May 24, 2012, in this docket. The Joint Parties would individually request special permission for these filings subject to part 61.17 of the Commission's rules.¹ Further, these filings would not be filed on the standard 15-days notice, which will preserve the Commission's ability to act upon the tariffs at a date beyond 15 days.²

¹ 47 C.F.R. § 61.17 (2012). The Joint Parties would reference the request for special permission in their respective letters of transmittal pursuant to the Commission's rules. *Id.* at §61.15

² See 47 U.S.C. § 204(a)(3) (2012) ("A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.").

The interim proposal outlined above has numerous benefits and is in the public interest. The Commission, in its *USF/ICC Transformation Order*, states that it “continues to encourage carriers” to convert from rate-of-return to price cap regulation.³ The Joint Parties have, through the *Joint Petition*, demonstrated their intent to engage in such a conversion, though it would completely alter the manner in which these companies collect revenues. By allowing the Joint Parties to file tariffs at current settlement rate levels during the pendency of their *Joint Petition*, the Commission would support the Joint Parties’ efforts and promote stability⁴ avoiding the possibility of enduring two dramatic rate shifts that would occur in quick succession if the new formulas were to take effect July 1, 2012, and the price cap conversions are approved in the same calendar year. Stable rate formulas would also allow the Commission to maintain a more consistent view of the Joint Parties’ revenues, which is essential in determining the Joint Parties’ appropriate post-conversion rates if the Commission grants the *Joint Petition*. In addition, if the *Joint Petition* is granted, the resulting terminating access rates would be subject to the more rapid phase-down of price cap companies as defined in the *USF/ICC Transformation Order*,⁵ in furtherance of the Commission’s goal to move toward a national bill-and-keep framework for terminating access.⁶

Moreover, it would also benefit NECA and the other members of the average schedule pool to exclude the Joint Parties while the *Joint Petition* is pending. Removing the Joint Parties from the average-schedule pool once the formulas are already in place would create administrative difficulties for NECA, which must then recalculate its formulas to exclude the companies. The other average schedule companies would also be affected adversely by a post-July 1, 2012, average schedule recalculation because it would alter the calculations on which they would already rely. If the Commission does move forward with the proposal as outlined above, the Joint Parties believe that NECA would need to incorporate these revisions into its filings due to the Commission on June 18, 2012.

Pursuant to Section 1.1206(b) of the Commission’s rules, 47 C.F.R. §1.1206(b), this letter is being filed electronically with your office today.

Please feel free to contact me with any further questions.

³ *In re: Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Inter-carrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund*, WC Dkt. Nos. 10-90, 07-135, 05-337, 03-109; GN Dkt. No. 09-51; CC Dkt. Nos. 01-92, 96-45, WT Dkt. No. 10-208, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 at ¶ 814 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

⁴ One of the Commission’s inter-carrier compensation reform goals was to ensure stability. *See id.* at Appendix O: Final Regulatory Flexibility Analysis, ¶119 (“Above all, our tailored approach to transitional recovery is designed to balance the different circumstances facing the different carrier types and provide all carriers with necessary predictability, certainty and stability to transition from the current inter-carrier compensation system.”).

⁵ *See id.* at ¶ 801 (describing the different access reduction transitions for price cap and rate-of-return companies).

⁶ *See, e.g., id.* at ¶ 34.



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Sincerely,

A handwritten signature in blue ink, reading "Michael Saperstein Jr." with a stylized flourish at the end.

Michael D. Saperstein, Jr.
Director of Federal Regulatory Affairs
Frontier Communications
(202) 223-6807

cc: Sharon Gillett
Pam Arluk
Victoria Goldberg
Travis Litman
Deena Shetler